



State of Wisconsin
2003 - 2004 LEGISLATURE

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LRB-3161/A
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2003 BILL

*STATE
(long analysis)*

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Now

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1 AN ACT *to repeal* 102.51 (1) (a) 2.; *to amend* 11.05 (10), 29.219 (4), 29.228 (5),
2 29.228 (6), 29.229 (2) (i), 29.2295 (2) (i), 29.563 (3) (a) 3., 29.607 (3), 40.02 (8) (a)
3 2., 45.348 (2) (a) 1., 45.37 (4) (c) 5., 45.37 (6) (a), 46.10 (2), 48.02 (13), 48.432 (1)
4 (am) 2. b., 48.82 (1) (a), 49.141 (1) (j) 2., 49.19 (4) (d) (intro.), 49.19 (4) (d) 1., 49.19
5 (4) (d) 2., 49.19 (4) (d) 3., 49.19 (4) (d) 4., 49.19 (4) (d) 5., 49.19 (4) (d) 8., 49.43
6 (12), 49.90 (4), 69.11 (4) (b), 69.12 (5), 69.13 (2) (b) 4., 69.14 (1) (e), 69.14 (1) (g),
7 69.15 (3) (b) 1. and 2., 71.03 (2) (d) (title), 71.03 (2) (d) 1., 71.03 (2) (d) 2., 71.03
8 (2) (d) 3., 71.03 (2) (g), 71.03 (2) (m) 2., 71.03 (4) (a), 71.05 (22) (a) (title), 71.07
9 (5m) (a) 3., 71.07 (9e) (b), 71.09 (13) (a) 2., 71.52 (4), 71.83 (1) (a) 8., 71.83 (1) (b)
10 5., 77.25 (8m), 102.49 (1), 102.51 (1) (a) 1., 103.10 (1) (h), 111.32 (12), 115.76 (12)
11 (a) 2., 146.34 (1) (f), 157.05, 157.10, 182.004 (6), 301.12 (2), 700.19 (2), 705.01
12 (4) and (4m), 706.09 (1) (e), 765.001 (2), 765.01, 765.03 (1), 765.16 (intro.) and
13 (3), 765.23, 765.24, 765.30 (3) (a), 766.587 (7) (form), 766.588 (9) (form), 766.589
14 (10) (form), 767.082, 767.085 (1) (a), 767.085 (1) (b), 767.458 (1m), 767.47 (9),

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specifically

1 767.50 (1), 769.316 (9), 815.20 (1), 851.30 (2) (a), 854.03 (3), 880.12 (1), 880.32,
 2 880.835 (1), 891.39 (1) (a), 891.39 (3), 891.40 (1), 891.40 (2), 905.05 (title), 938.02
 3 (13), 943.20 (2) (c) and 943.205 (2) (b); and *to create* 765.02 (3) and 990.01 (39)
 4 of the statutes; **relating to:** civil marriages.

Analysis by the Legislative Reference Bureau

*Insert
2-A*

¶ This bill provides that marriage may be contracted between two persons of the same or opposite sex and confers the same rights and responsibilities on married persons of the same sex that married persons of the opposite sex have under current law. The bill defines "spouse" as a person who is legally married to another person of the same or opposite sex and replaces with "spouse" every reference in current law to "husband" or "wife." The bill makes applicable to married persons of the same sex all provisions under current law that apply to married persons of the opposite sex. These provisions relate to such diverse areas of the law as income tax, adoption, marital property, consent to artificial insemination, inheritance rights, divorce, child and spousal support, insurance coverage, family and spousal recreational licenses, consent for conducting an autopsy, domestic abuse, and eligibility for various types of benefits, such as retirement or death benefits or medical assistance.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 11.05 (10) of the statutes is amended to read:
 6 11.05 (10) CERTAIN ACTIVITY BY SPOUSES EXEMPT. For purposes of compliance
 7 with the registration requirements of this section a ~~husband and wife~~ spouses acting
 8 jointly for political purposes shall be considered an "individual" rather than a
 9 "committee".

10 **SECTION 2.** 29.219 (4) of the statutes is amended to read:
 11 29.219 (4) ~~HUSBAND AND WIFE~~ SPOUSES RESIDENT LICENSES. A combined ~~husband~~
 12 ~~and wife~~ spouses resident fishing license shall be issued subject to s. 29.024 by the

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1 department to residents applying for this license. This license confers upon both
2 husband and wife spouses the privileges of resident fishing licenses.

3 **SECTION 3.** 29.228 (5) of the statutes is amended to read:

4 29.228 (5) ANNUAL FAMILY FISHING LICENSE. The department shall issue a
5 nonresident annual family fishing license, subject to s. 29.024, to any nonresident
6 who applies for this license. This license entitles ~~the husband, wife~~ spouses and any
7 minor children to fish under this license.

8 **SECTION 4.** 29.228 (6) of the statutes is amended to read:

9 29.228 (6) FIFTEEN-DAY FAMILY FISHING LICENSE. The department shall issue a
10 nonresident 15-day family fishing license, subject to s. 29.024, to any nonresident
11 who applies for this license. This license entitles ~~the husband, wife~~ spouses and any
12 minor children to fish under this license.

13 **SECTION 5.** 29.229 (2) (i) of the statutes is amended to read:

14 29.229 (2) (i) ~~Husband and wife~~ Spouses fishing licenses.

15 **SECTION 6.** 29.2295 (2) (i) of the statutes is amended to read:

16 29.2295 (2) (i) ~~Husband and wife~~ Spouses fishing licenses.

17 **SECTION 7.** 29.563 (3) (a) 3. of the statutes is amended to read:

18 29.563 (3) (a) 3. ~~Husband and wife~~ Spouses: \$23.25.

19 **SECTION 8.** 29.607 (3) of the statutes is amended to read:

20 29.607 (3) LICENSE REQUIRED; EXCEPTIONS; WILD RICE IDENTIFICATION CARD. Every
21 person over the age of 16 and under the age of 65 shall obtain the appropriate wild
22 rice license to harvest or deal in wild rice but no license to harvest is required of the
23 members of the immediate family of a licensee or of a recipient of old-age assistance
24 or members of their immediate families. The department, subject to s. 29.024 (2g)
25 and (2r), shall issue a wild rice identification card to each member of a licensee's

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1 immediate family, to a recipient of old-age assistance, and to each member of the
2 recipient's family. The term "immediate family" includes ~~husband and wife~~ spouses
3 and minor children ~~having~~ who have their abode and domicile with the parent or
4 legal guardian.

5 **SECTION 9.** 40.02 (8) (a) 2. of the statutes is amended to read:

6 40.02 (8) (a) 2. In the absence of a written designation of beneficiary, or if all
7 beneficiaries so designated die before filing with the department an application for
8 any death benefit payable, the person determined in the following sequence: group
9 1, ~~widow or widower~~ surviving spouse; group 2, children if at least one child survives
10 the participant, employee, or annuitant, in which event the share of any deceased
11 child shall be payable to the surviving spouse of the child or to the surviving children
12 of the child if there is no spouse, or otherwise to the other eligible children in this
13 group; group 3, grandchild; group 4, parent; group 5, brother and sister. No payment
14 may be made to a person included in any group if there is a living person in any
15 preceding group.

16 **SECTION 10.** 45.348 (2) (a) 1. of the statutes is amended to read:

17 45.348 (2) (a) 1. A spouse, an unremarried ~~widow or widower~~ surviving spouse,
18 or a divorced spouse, but only if the divorced spouse is receiving benefits under a
19 court order.

20 **SECTION 11.** 45.37 (4) (c) 5. of the statutes is amended to read:

21 45.37 (4) (c) 5. The department may deviate from this sequence upon order of
22 the board in order to prevent the separation of a family unit of ~~husband and wife~~
23 spouses.

24 **SECTION 12.** 45.37 (6) (a) of the statutes is amended to read:

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1 45.37 (6) (a) Was married to and living with the deceased veteran not less than
2 6 months immediately prior to the death of the veteran, or was married to the veteran
3 at the time the veteran entered the service and ~~was widowed~~ became a surviving
4 spouse by the death of the veteran in the service or as a result of physical disability
5 incurred during such service, or the period during which the surviving spouse was
6 married to and lived with the deceased veteran plus the period ~~of widowhood~~ during
7 which a person remains a surviving spouse is 6 months or more, or if the surviving
8 spouse was married to and living with the veteran less than 6 months and a child was
9 born of the marriage; and

10 **SECTION 13.** 46.10 (2) of the statutes is amended to read:

11 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
12 including but not limited to a person admitted, committed or placed under s. 975.01,
13 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
14 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
15 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and
16 supplies provided by any institution in this state including University of Wisconsin
17 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
18 care, maintenance, services and supplies, any person receiving care and services
19 from a county department established under s. 51.42 or 51.437 or from a facility
20 established under s. 49.73, and any person receiving treatment and services from a
21 public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4)
22 (e) or 980.08 (5) and the person's property and estate, including the homestead, and
23 the spouse of the person, and the spouse's property and estate, including the
24 homestead, and, in the case of a minor child, the parents of the person, and their
25 property and estates, including their homestead, and, in the case of a foreign child

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1 described in s. 48.839 (1) who became dependent on public funds for his or her
2 primary support before an order granting his or her adoption, the resident of this
3 state appointed guardian of the child by a foreign court who brought the child into
4 this state for the purpose of adoption, and his or her property and estate, including
5 his or her homestead, shall be liable for the cost of the care, maintenance, services
6 and supplies in accordance with the fee schedule established by the department
7 under s. 46.03 (18). If a spouse, ~~widow~~ surviving spouse, or minor, or an
8 incapacitated person may be lawfully dependent upon the property for their support,
9 the court shall release all or such part of the property and estate from the charges
10 that may be necessary to provide for those persons. The department shall make
11 every reasonable effort to notify the liable persons as soon as possible after the
12 beginning of the maintenance, but the notice or the receipt thereof is not a condition
13 of liability.

14 **SECTION 14.** 48.02 (13) of the statutes is amended to read:

15 48.02 (13) "Parent" means either a biological parent, a ~~husband~~ spouse who has
16 consented to the artificial insemination of his ~~wife~~ or her spouse under s. 891.40, or
17 a parent by adoption. If the child is a nonmarital child who is not adopted or whose
18 parents do not subsequently intermarry under s. 767.60, "parent" includes a person
19 acknowledged under s. 767.62 (1) or a substantially similar law of another state or
20 adjudicated to be the biological father. "Parent" does not include any person whose
21 parental rights have been terminated.

22 **SECTION 15.** 48.432 (1) (am) 2. b. of the statutes is amended to read:

23 48.432 (1) (am) 2. b. If there is no adjudicated father, the ~~husband~~ spouse of the
24 mother at the time the individual or adoptee is conceived or born, or when the parents
25 intermarry under s. 767.60.

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1 **SECTION 16.** 48.82 (1) (a) of the statutes is amended to read:

2 48.82 (1) (a) ~~A husband and wife~~ Spouses jointly, or ~~either the husband or wife~~
3 if the ~~other~~ spouse is of a parent of the minor.

4 **SECTION 17.** 49.141 (1) (j) 2. of the statutes is amended to read:

5 49.141 (1) (j) 2. A person who has consented to the artificial insemination of his
6 wife or her spouse under s. 891.40.

7 **SECTION 18.** 49.19 (4) (d) (intro.) of the statutes is amended to read:

8 49.19 (4) (d) (intro.) Aid may be granted to ~~the mother or stepmother~~ a parent
9 or stepparent of a dependent child if ~~she~~ the parent or stepparent is without a
10 husband spouse or if ~~she~~ the parent or stepparent:

11 **SECTION 19.** 49.19 (4) (d) 1. of the statutes is amended to read:

12 49.19 (4) (d) 1. Is the ~~wife~~ spouse of a ~~husband~~ an individual who is
13 incapacitated for gainful work by mental or physical disability; or

14 **SECTION 20.** 49.19 (4) (d) 2. of the statutes is amended to read:

15 49.19 (4) (d) 2. Is the ~~wife~~ spouse of a ~~husband~~ an individual who is incarcerated
16 or who is a convicted offender permitted to live at home but precluded from earning
17 a wage because the ~~husband~~ individual is required by a court imposed sentence to
18 perform unpaid public work or unpaid community service; or

19 **SECTION 21.** 49.19 (4) (d) 3. of the statutes is amended to read:

20 49.19 (4) (d) 3. Is the ~~wife~~ spouse of a ~~husband~~ an individual who has been
21 committed to the department pursuant to ch. 975, irrespective of the probable period
22 of such commitment; or

23 **SECTION 22.** 49.19 (4) (d) 4. of the statutes is amended to read:

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1 49.19 (4) (d) 4. Is the wife spouse of a ~~husband~~ an individual who has
2 continuously abandoned or failed to support him or her, if proceedings have been
3 commenced against the ~~husband~~ individual under ch. 769; or

4 **SECTION 23.** 49.19 (4) (d) 5. of the statutes is amended to read:

5 49.19 (4) (d) 5. Has been divorced and is without a ~~husband~~ spouse or legally
6 separated from his or her husband spouse and is unable through use of the provisions
7 of law to compel his or her former husband spouse to adequately support the child
8 for whom aid is sought; or

9 **SECTION 24.** 49.19 (4) (d) 8. of the statutes is amended to read:

10 49.19 (4) (d) 8. Is incapacitated and the county department under s. 46.215 or
11 46.22 believes ~~she~~ the parent or stepparent is the proper payee.

12 **SECTION 25.** 49.43 (12) of the statutes is amended to read:

13 49.43 (12) “Spouse” means the legal ~~husband or wife~~ of the beneficiary
14 individual to whom the beneficiary is legally married, whether or not eligible for
15 medical assistance.

16 **SECTION 26.** 49.90 (4) of the statutes is amended to read:

17 49.90 (4) The circuit court shall in a summary way hear the allegations and
18 proofs of the parties and by order require maintenance from these relatives, if they
19 have sufficient ability, considering their own future maintenance and making
20 reasonable allowance for the protection of the property and investments from which
21 they derive their living and their care and protection in old age, in the following
22 order: First the ~~husband or wife~~ spouse; then the father and the mother; and then
23 the grandparents in the instances in which sub. (1) (a) 2. applies. The order shall
24 specify a sum which will be sufficient for the support of the dependent person under
25 sub. (1) (a) 1. or the maintenance of a child of a dependent person under sub. (1) (a)

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1 2., to be paid weekly or monthly, during a period fixed by the order or until the further
2 order of the court. If the court is satisfied that any such relative is unable wholly to
3 maintain the dependent person or the child, but is able to contribute to the person's
4 support or the child's maintenance, the court may direct 2 or more of the relatives
5 to maintain the person or the child and prescribe the proportion each shall
6 contribute. If the court is satisfied that these relatives are unable together wholly
7 to maintain the dependent person or the child, but are able to contribute to the
8 person's support or the child's maintenance, the court shall direct a sum to be paid
9 weekly or monthly by each relative in proportion to ability. Contributions directed
10 by court order, if for less than full support, shall be paid to the department of health
11 and family services and distributed as required by state and federal law. An order
12 under this subsection that relates to maintenance required under sub. (1) (a) 2. shall
13 specifically assign responsibility for and direct the manner of payment of the child's
14 health care expenses, subject to the limitations under subs. (1) (a) 2. and (11). Upon
15 application of any party affected by the order and upon like notice and procedure, the
16 court may modify such an order. Obedience to such an order may be enforced by
17 proceedings for contempt.

18 **SECTION 27.** 69.11 (4) (b) of the statutes, as affected by 2003 Wisconsin Act 52,
19 is amended to read:

20 69.11 (4) (b) The state registrar may amend an item on a birth certificate that
21 affects information about the name, sex, date of birth, place of birth, parent's name,
22 or marital status of the mother if 365 days have elapsed since the occurrence of the
23 event that is the subject of the birth certificate, if the amendment is at the request
24 of a person with a direct and tangible interest in the record and is on a request form
25 supplied by the state registrar, and if the amendment is accompanied by 2 items of

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1 documentary evidence from early childhood that are sufficient to prove that the item
2 to be changed is in error and by the affidavit of the person requesting the
3 amendment. A change in the marital status on the birth certificate may be made
4 under this paragraph only if the marital status is inconsistent with information
5 concerning ~~the father or husband~~ a parent or spouse that appears on the birth
6 certificate. This paragraph may not be used to add to or delete from a birth certificate
7 the name of a parent, to change the identity of a parent named on the birth certificate,
8 or to effect a name change prohibited under s. 301.47.

9 **SECTION 28.** 69.12 (5) of the statutes is amended to read:

10 69.12 (5) A change in the marital status on the certificate of birth may be
11 requested under this section only if the marital status is inconsistent with ~~father or~~
12 ~~husband~~ parent or spouse information appearing on the certificate of birth. This
13 section may not be used to add or delete the name of a parent on the certificate of birth
14 or change the identity of either parent named on the certificate of birth.

15 **SECTION 29.** 69.13 (2) (b) 4. of the statutes is amended to read:

16 69.13 (2) (b) 4. If relevant to the correction sought, a certified copy of a marriage
17 document, a certified copy of a certificate of divorce or annulment or a final divorce
18 decree that indicates that the mother was not married to the person listed as her
19 ~~husband~~ spouse at any time during the pregnancy, a legal name change order, or any
20 other legal document that clarifies the disputed information.

21 **SECTION 30.** 69.14 (1) (e) of the statutes is amended to read:

22 69.14 (1) (e) *Father's name.* 1. If the mother of a registrant under this section
23 was married to a man at any time from the conception to the birth of the registrant,
24 the name of the ~~husband~~ spouse of the mother shall be entered on the birth certificate

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1 as the legal father of the registrant. The name of the father entered under this
2 subdivision may not be changed except by a proceeding under ch. 767.

3 2. If the mother was not married to a man at any time from the conception to
4 the birth of a registrant under this section, no name of any alleged father of the
5 registrant may be entered as the father on the birth certificate except as provided
6 under s. 69.15 (3). If under this subdivision the name of the father of the registrant
7 of a birth certificate is omitted from the certificate, no other information about the
8 father may be entered on the certificate.

9 **SECTION 31.** 69.14 (1) (g) of the statutes is amended to read:

10 69.14 (1) (g) *Birth by artificial insemination.* If the registrant of a birth
11 certificate under this section is born as a result of artificial insemination under the
12 requirements of s. 891.40, the ~~husband~~ spouse of the ~~woman~~ mother shall be
13 considered ~~the father~~ a parent of the registrant on the birth certificate. If the
14 registrant is born as a result of artificial insemination which does not satisfy the
15 requirements of s. 891.40, ~~the~~ any information about ~~the father~~ a parent, other than
16 the biological mother, of the registrant shall be omitted from the registrant's birth
17 certificate.

18 **SECTION 32.** 69.15 (3) (b) 1. and 2. of the statutes are amended to read:

19 69.15 (3) (b) 1. Except as provided under par. (c), if the state registrar receives
20 a statement acknowledging paternity on a form prescribed by the state registrar and
21 signed by both of the birth parents of a child determined to be a marital child under
22 s. 767.60, a certified copy of the parents' marriage certificate and the fee required
23 under s. 69.22 (5) (b) 1., the state registrar shall insert the name of the ~~husband~~ male
24 spouse from the marriage certificate as the father if the name of the father was

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1 omitted on the original birth certificate. The state registrar shall include on the form
2 for the acknowledgment a notice of the information in s. 767.458 (1) (a) to (e).

3 2. Except as provided under par. (c), if the parent of a child determined to be
4 a marital child under s. 767.60 dies after his or her marriage and before the
5 statement acknowledging paternity has been signed, the state registrar shall insert
6 the name of the father under subd. 1. upon receipt of a court order determining that
7 the ~~husband~~ male spouse was the father of the child.

8 **SECTION 33.** 71.03 (2) (d) (title) of the statutes is amended to read:

9 71.03 (2) (d) (title) ~~*Husband and wife*~~ *Married persons joint filing.*

10 **SECTION 34.** 71.03 (2) (d) 1. of the statutes is amended to read:

11 71.03 (2) (d) 1. Except as provided in subds. 2. and 3. and par. (e), ~~a husband~~
12 ~~and a wife~~ married persons may file a joint return for income tax purposes even
13 though one of the spouses has no gross income or no deductions.

14 **SECTION 35.** 71.03 (2) (d) 2. of the statutes is amended to read:

15 71.03 (2) (d) 2. No joint return may be filed if either ~~the husband or wife~~ spouse
16 at any time during the taxable year is a nonresident alien, unless an election is in
17 effect for the taxable year under section 6013 (g) or (h) of the ~~internal revenue code~~
18 Internal Revenue Code.

19 **SECTION 36.** 71.03 (2) (d) 3. of the statutes is amended to read:

20 71.03 (2) (d) 3. No joint return may be filed if the ~~husband and wife~~ spouses
21 have different taxable years, except that if their taxable years begin on the same day
22 and end on different days because of the death of either or both the joint return may
23 be filed with respect to the taxable year of each unless the surviving spouse remarries
24 before the close of his or her taxable year or unless the taxable year of either spouse

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1 is a fractional part of a year under section 443 (a) (1) of the ~~internal revenue code~~
2 Internal Revenue Code.

3 **SECTION 37.** 71.03 (2) (g) of the statutes is amended to read:

4 71.03 (2) (g) *Joint return following separate return.* Except as provided in par.
5 (i), if an individual has filed a separate return for a taxable year for which a joint
6 return could have been filed by the individual and the individual's spouse under par.
7 (d) or (e) and the time prescribed by law for timely filing the return for that taxable
8 year has expired, the individual and the individual's spouse may file a joint return
9 for that taxable year. A joint return filed by ~~the husband and wife~~ spouses under this
10 paragraph is their return for that taxable year, and all payments, credits, refunds
11 or other repayments made or allowed with respect to the separate return of each
12 spouse for that taxable year shall be taken into account in determining the extent
13 to which the tax based upon the joint return has been paid. If a joint return is filed
14 under this paragraph, any election, other than the election to file a separate return,
15 made by either spouse in that spouse's separate return for that taxable year with
16 respect to the treatment of any income, deduction or credit of that spouse may not
17 be changed in the filing of the joint return if that election would have been irrevocable
18 if the joint return had not been filed.

19 **SECTION 38.** 71.03 (2) (m) 2. of the statutes is amended to read:

20 71.03 (2) (m) 2. If a ~~husband and wife~~ married person and his or her spouse
21 change from a joint return to separate returns within the time prescribed in subd.
22 1., the tax paid on the joint return shall be allocated between them in proportion to
23 the tax liability shown on each separate return.

24 **SECTION 39.** 71.03 (4) (a) of the statutes is amended to read:

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1 71.03 (4) (a) Natural persons whose total income is not in excess of \$10,000 and
2 consists entirely of wages subject to withholding for Wisconsin tax purposes and not
3 more than \$200 total of dividends, interest and other wages not subject to Wisconsin
4 withholding, and who have elected the Wisconsin standard deduction and have not
5 claimed either the credit for homestead property tax relief or the deductions for
6 expenses incurred in earning such income, shall, at their election, not be required to
7 record on their income tax returns the amount of the tax imposed on their Wisconsin
8 taxable income. Married persons shall be permitted this election only if the joint
9 income of the ~~husband and wife~~ spouses does not exceed \$10,000, if both report their
10 incomes on the same joint income tax return form, and if both make this election.

11 **SECTION 40.** 71.05 (22) (a) (title) of the statutes is amended to read:

12 71.05 (22) (a) (title) *Election of deductions; ~~husband and wife~~ married persons'*
13 *deductions.*

14 **SECTION 41.** 71.07 (5m) (a) 3. of the statutes is amended to read:

15 71.07 (5m) (a) 3. “Household” means a claimant and ~~an individual related to~~
16 ~~the claimant as husband or wife~~ the claimant's spouse.

17 **SECTION 42.** 71.07 (9e) (b) of the statutes is amended to read:

18 71.07 (9e) (b) No credit may be allowed under this subsection to married
19 persons, except married persons living apart who are treated as single under section
20 7703 (b) of the ~~internal revenue code~~ Internal Revenue Code, if the ~~husband and wife~~
21 spouses report their income on separate income tax returns for the taxable year.

22 **SECTION 43.** 71.09 (13) (a) 2. of the statutes is amended to read:

23 71.09 (13) (a) 2. The tax shown on the return for the preceding year. If a
24 ~~husband and wife~~ spouses who filed separate returns for the preceding taxable year
25 file a joint return, the tax shown on the return for the preceding year is the sum of

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1 the taxes shown on the separate returns of the husband and wife spouses. If a
2 husband and wife spouses who filed a joint return for the preceding taxable year file
3 separate returns, the tax shown on the return for the preceding year is the husband's
4 or wife's one spouse's proportion of that tax based on what their respective tax
5 liabilities for that year would have been had they filed separately.

6 **SECTION 44.** 71.52 (4) of the statutes is amended to read:

7 71.52 (4) "Household" means a claimant and ~~an individual related to the~~
8 ~~claimant as husband or wife~~ the claimant's spouse.

9 **SECTION 45.** 71.83 (1) (a) 8. of the statutes is amended to read:

10 71.83 (1) (a) 8. 'Joint return replacing separate returns.' If the amount shown
11 as the tax by ~~the husband and wife~~ married persons on a joint return filed under s.
12 71.03 (2) (g) to (L) exceeds the sum of the amounts shown as the tax upon the separate
13 return of each spouse and if any part of that excess is attributable to negligence or
14 intentional disregard of this chapter, but without intent to defraud, at the time of the
15 filing of that separate return, then 25% of the total amount of that excess shall be
16 added to the tax.

17 **SECTION 46.** 71.83 (1) (b) 5. of the statutes is amended to read:

18 71.83 (1) (b) 5. 'Joint return after separate returns.' If the amount shown as
19 the tax by ~~the husband and wife~~ married persons on a joint return filed under s. 71.03
20 (2) (g) to (L) exceeds the sum of the amounts shown as the tax on the separate return
21 of each spouse and if any part of that excess is attributable to fraud with intent to
22 evade tax at the time of the filing of that separate return, then 50% of the total
23 amount of that excess shall be added to the tax.

24 **SECTION 47.** 77.25 (8m) of the statutes is amended to read:

25 77.25 (8m) Between ~~husband and wife~~ spouses.

BILL

1 **SECTION 48.** 102.49 (1) of the statutes is amended to read:

2 102.49 (1) Where the beneficiary under s. 102.46 or 102.47 (1) is the ~~wife or~~
3 ~~husband~~ spouse of the deceased employee and is wholly dependent for support, an
4 additional death benefit shall be paid from the funds provided by sub. (5) for each
5 child by their marriage who is living at the time of the death of the employee, and
6 who is likewise wholly dependent upon the employee for support. Such payment
7 shall commence at the time that primary death benefit payments are completed, or
8 if advancement of compensation has been paid at the time when payments would
9 normally have been completed. Payments shall continue at the rate of 10% of the
10 surviving parent's weekly indemnity until the child's 18th birthday. If the child is
11 physically or mentally incapacitated, such payments may be continued beyond the
12 18th birthday but the payments may not continue for more than a total of 15 years.

13 **SECTION 49.** 102.51 (1) (a) 1. of the statutes is amended to read:

14 102.51 (1) (a) 1. ~~A wife~~ An individual upon ~~a husband~~ his or her spouse with
15 whom ~~she~~ the individual is living at the time of ~~his~~ the spouse's death.

16 **SECTION 50.** 102.51 (1) (a) 2. of the statutes is repealed.

17 **SECTION 51.** 103.10 (1) (h) of the statutes is amended to read:

18 103.10 (1) (h) "Spouse" means ~~an employee's legal husband or wife~~ the person
19 to whom an employee is legally married.

20 **SECTION 52.** 111.32 (12) of the statutes is amended to read:

21 111.32 (12) "Marital status" means the status of being married, single,
22 divorced, or separated or widowed being a surviving spouse.

23 **SECTION 53.** 115.76 (12) (a) 2. of the statutes is amended to read:

24 115.76 (12) (a) 2. ~~A husband~~ An individual who has consented to the artificial
25 insemination of his ~~wife~~ or her spouse under s. 891.40.

BILL

1 **SECTION 54.** 146.34 (1) (f) of the statutes is amended to read:

2 146.34 (1) (f) “Parent” means a biological parent, a ~~husband~~ a spouse who has
3 consented to the artificial insemination of his wife or her spouse under s. 891.40 or
4 a parent by adoption. If the minor is a nonmarital child who is not adopted or whose
5 parents do not subsequently intermarry under s. 767.60, “parent” includes a person
6 adjudged in a judicial proceeding under ch. 48 to be the biological father of the minor.
7 “Parent” does not include any person whose parental rights have been terminated.

8 **SECTION 55.** 157.05 of the statutes is amended to read:

9 **157.05 Autopsy.** Consent for a licensed physician to conduct an autopsy on
10 the body of a deceased person shall be deemed sufficient when given by whichever
11 one of the following assumes custody of the body for purposes of burial: Father,
12 mother, ~~husband, wife~~ spouse, child, guardian, next of kin, or in the absence of any
13 of the foregoing, a friend, or a person charged by law with the responsibility for
14 burial. If 2 or more such persons assume custody of the body, the consent of one of
15 them shall be deemed sufficient.

16 **SECTION 56.** 157.10 of the statutes is amended to read:

17 **157.10 Alienation and use of cemetery lots.** While any person is buried in
18 a cemetery lot, the cemetery lot shall be inalienable, without the consent of the
19 cemetery authority, and on the death of the owner, ownership of the cemetery lot
20 shall descend to the owner’s heirs; but any one or more of such heirs may convey to
21 any other heir his or her interest in the cemetery lot. No human remains may be
22 buried in a cemetery lot except the human remains of one having an interest in the
23 cemetery lot, or a relative, or the ~~husband or wife~~ spouse of such person, or his or her
24 relative, except by the consent of all persons having an interest in the cemetery lot.

25 **SECTION 57.** 182.004 (6) of the statutes is amended to read:

BILL

1 182.004 (6) Stock may be issued and leases made to ~~husband and wife~~ spouses,
2 and to the survivor of them, in which event title shall descend the same as in like
3 conveyances of real property subject to ch. 766. Otherwise, title to the stock and lease
4 shall descend to the persons to whom a homestead of the stockholder would descend
5 except as provided in ch. 766. The interest of a tenant in the lease and stock shall
6 be exempt from execution to the same extent as a homestead in real estate.

7 **SECTION 58.** 301.12 (2) of the statutes is amended to read:

8 301.12 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
9 including but not limited to a person placed under s. 48.366, 938.183, 938.34 (4h) or
10 (4m) or 938.357 (4) or (5) (e), receiving care, maintenance, services and supplies
11 provided by any institution in this state operated or contracted for by the
12 department, in which the state is chargeable with all or part of the person's care,
13 maintenance, services and supplies, and the person's property and estate, including
14 the homestead, and the spouse of the person, and the spouse's property and estate,
15 including the homestead, and, in the case of a minor child, the parents of the person,
16 and their property and estates, including their homestead, and, in the case of a
17 foreign child described in s. 48.839 (1) who became dependent on public funds for his
18 or her primary support before an order granting his or her adoption, the resident of
19 this state appointed guardian of the child by a foreign court who brought the child
20 into this state for the purpose of adoption, and his or her property and estate,
21 including his or her homestead, shall be liable for the cost of the care, maintenance,
22 services and supplies in accordance with the fee schedule established by the
23 department under s. 301.03 (18). If a spouse, ~~widow~~ surviving spouse, or minor, or
24 an incapacitated person may be lawfully dependent upon the property for ~~their~~
25 support, the court shall release all or such part of the property and estate from the

BILL

1 charges that may be necessary to provide for ~~those persons~~ that person. The
2 department shall make every reasonable effort to notify the liable persons as soon
3 as possible after the beginning of the maintenance, but the notice or the receipt of
4 the notice is not a condition of liability.

5 **SECTION 59.** 700.19 (2) of the statutes is amended to read:

6 700.19 (2) ~~HUSBAND AND WIFE~~ SPOUSES. If persons named as owners in a
7 document of title, transferees in an instrument of transfer or buyers in a bill of sale
8 are described in the document, instrument or bill of sale as ~~husband and wife~~
9 spouses, or are in fact ~~husband and wife~~ spouses, they are joint tenants, unless the
10 intent to create a tenancy in common is expressed in the document, instrument or
11 bill of sale. This subsection applies to property acquired before January 1, 1986, and,
12 if ch. 766 does not apply when the property is acquired, to property acquired on or
13 after January 1, 1986.

14 **SECTION 60.** 705.01 (4) and (4m) of the statutes are amended to read:

15 705.01 (4) “Joint account” means an account, other than a marital account,
16 payable on request to one or more of 2 or more parties whether or not mention is made
17 of any right of survivorship. “Joint account” also means any account established with
18 the right of survivorship on or after January 1, 1986, by 2 parties who claim to be
19 ~~husband and wife~~ married to each other, which is payable on request to either or both
20 of the parties.

21 (4m) “Marital account” means an account established without the right of
22 survivorship on or after January 1, 1986, by 2 parties who claim to be ~~husband and~~
23 wife married to each other, which is payable on request to either or both of the parties
24 and which is designated as a marital account. An account established by those

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1 parties with the right of survivorship under s. 766.58 (3) (f) or 766.60 is a joint
2 account.

3 **SECTION 61.** 706.09 (1) (e) of the statutes is amended to read:

4 706.09 (1) (e) *Marital interests.* Homestead of the spouse of any transferor of
5 an interest in real estate, if the recorded conveyance purporting to transfer the
6 homestead states that the person executing it is single, or unmarried or widowed, or
7 is a surviving spouse, or fails to indicate the marital status of the transferor, and if
8 the conveyance has, in either case, appeared of record for 5 years. This paragraph
9 does not apply to the interest of a married person who is described of record as a
10 holder in joint tenancy or of marital property with that transferor.

11 **SECTION 62.** 765.001 (2) of the statutes is amended to read:

12 765.001 (2) INTENT. It is the intent of chs. 765 to 768 to promote the stability
13 and best interests of marriage and the family. It is the intent of the legislature to
14 recognize the valuable contributions of both spouses during the marriage and at
15 termination of the marriage by dissolution or death. Marriage is the institution that
16 is the foundation of the family and of society. Its stability is basic to morality and
17 civilization, and of vital interest to society and the state. The consequences of the
18 marriage contract are more significant to society than those of other contracts, and
19 the public interest must be taken into account always. The seriousness of marriage
20 makes adequate premarital counseling and education for family living highly
21 desirable and courses thereon are urged upon all persons contemplating marriage.
22 The impairment or dissolution of the marriage relation generally results in injury
23 to the public wholly apart from the effect upon the parties immediately concerned.
24 Under the laws of this state, marriage is a legal relationship between 2 equal
25 persons, ~~a husband and wife~~ spouses, who owe to each other mutual responsibility

BILL

1 and support. Each spouse has an equal obligation in accordance with his or her
2 ability to contribute money or services or both which are necessary for the adequate
3 support and maintenance of his or her minor children and of the other spouse. No
4 spouse may be presumed primarily liable for support expenses under this subsection.

5 **SECTION 63.** 765.01 of the statutes is amended to read:

6 **765.01 A civil contract.** Marriage, so far as its validity at law is concerned,
7 is a civil contract, to which the consent of the parties capable in law of contracting
8 is essential, and which creates the legal status of ~~husband and wife~~ spouses.

9 **SECTION 64.** 765.02 (3) of the statutes is created to read:

10 765.02 (3) Two persons of the same or opposite sex may contract marriage.

11 **SECTION 65.** 765.03 (1) of the statutes is amended to read:

12 765.03 (1) No marriage shall be contracted while either of the parties has a
13 ~~husband or wife~~ spouse living, nor between persons who are nearer of kin than 2nd
14 cousins except that such a marriage may be contracted ~~between first cousins where~~
15 if the female has attained the age of 55 years ~~or where, if~~ either party, at the time of
16 application for a marriage license, submits an affidavit signed by a physician stating
17 that either party is permanently sterile, or if the persons are of the same sex.
18 Relationship under this section shall be computed by the rule of the civil law, whether
19 the parties to the marriage are of the half or of the whole blood. A marriage may not
20 be contracted if either party has such want of understanding as renders him or her
21 incapable of assenting to marriage.

22 **SECTION 66.** 765.16 (intro.) and (3) of the statutes are amended to read:

23 **765.16 Marriage contract, how made; officiating person.** (intro.)
24 Marriage may be validly solemnized and contracted in this state only after a
25 marriage license has been issued ~~therefor~~, and only by the mutual declarations of the

BILL

1 2 parties to be joined in marriage that ~~they take~~ each takes the other as ~~husband and~~
2 wife his or her spouse, made before an authorized officiating person and in the
3 presence of at least 2 competent adult witnesses other than the officiating person.

4 The following are authorized to be officiating persons:

5 (3) The 2 parties themselves, by mutual declarations that ~~they take~~ each takes
6 the other as ~~husband and wife~~ his or her spouse, in accordance with the customs,
7 rules, and regulations of any religious society, denomination, or sect to which either
8 of the parties may belong.

9 **SECTION 67.** 765.23 of the statutes is amended to read:

10 **765.23 Immaterial irregularities otherwise.** No marriage hereafter
11 contracted shall be void either by reason of the marriage license having been issued
12 by a county clerk not having jurisdiction to issue the same; or by reason of any
13 informality or irregularity of form in the application for the marriage license or in
14 the marriage license itself, or the incompetency of the witnesses to such marriage;
15 or because the marriage may have been solemnized in a county other than the county
16 prescribed in s. 765.12, or more than 30 days after the date of the marriage license,
17 if the marriage is in other respects lawful and is consummated with the full belief
18 on the part of the persons so married, or either of them, that they have been lawfully
19 joined in marriage. Where a marriage has been celebrated in one of the forms
20 provided for in s. 765.16, and the parties thereto have immediately thereafter
21 assumed the habit and repute of ~~husband and wife~~ spouses, and having continued
22 the same uninterruptedly thereafter for the period of one year, or until the death of
23 either of them, it shall be deemed that a marriage license has been issued as required
24 by ss. 765.05 to 765.24 and 767.60.

25 **SECTION 68.** 765.24 of the statutes is amended to read:

BILL

1 **765.24 Removal of impediments to subsequent marriage.** If a person
2 during the lifetime of a ~~husband and wife~~ spouse with whom the marriage is in force,
3 enters into a subsequent marriage contract in accordance with s. 765.16, and the
4 parties thereto live together thereafter as ~~husband and wife~~ spouses, and such
5 subsequent marriage contract was entered into by one of the parties in good faith,
6 in the full belief that the former ~~husband and wife~~ spouse was dead, or that the
7 former marriage had been annulled, or dissolved by a divorce, or without knowledge
8 of such former marriage, they shall, after the impediment to their marriage has been
9 removed by the death or divorce of the other party to such former marriage, if they
10 continue to live together as ~~husband and wife~~ spouses in good faith on the part of one
11 of them, be held to have been legally married from and after the removal of such
12 impediment and ~~the~~ any issue of such subsequent marriage shall be considered as
13 the marital issue of both parents.

14 **SECTION 69.** 765.30 (3) (a) of the statutes is amended to read:

15 765.30 (3) (a) *Penalty for unlawful solemnization of marriage.* Any officiating
16 person who solemnizes a marriage unless the contracting parties have first obtained
17 a proper marriage license as heretofore provided; or unless the parties to such
18 marriage declare that ~~they take each~~ takes the other as ~~husband and wife~~ his or her
19 spouse; or without the presence of 2 competent adult witnesses; or solemnizes a
20 marriage knowing of any legal impediment thereto; or solemnizes a marriage more
21 than 30 days after the date of the marriage license; or falsely certifies to the date of
22 a marriage solemnized by the officiating person; or solemnizes a marriage in a county
23 other than the county prescribed in s. 765.12.

24 **SECTION 70.** 766.587 (7) (form) of the statutes is amended to read:

25 766.587 (7) (form)

BILL

1 NOTICE TO PERSONS WHO SIGN THIS AGREEMENT:

2 1. EFFECTIVE JANUARY 1, 1986, A NEW PROPERTY LAW, KNOWN AS
3 THE MARITAL PROPERTY SYSTEM, GOVERNS THE PROPERTY RIGHTS OF
4 MARRIED PERSONS IN WISCONSIN. UNDER THE MARITAL PROPERTY
5 SYSTEM, EACH SPOUSE HAS A 50% OWNERSHIP INTEREST IN PROPERTY
6 ACQUIRED DURING MARRIAGE DUE TO THE EFFORTS OF EITHER OR
7 BOTH SPOUSES, SUCH AS WAGES, DEFERRED EMPLOYMENT BENEFITS,
8 LIFE INSURANCE, INCOME FROM PROPERTY AND CERTAIN
9 APPRECIATION OF PROPERTY. BY ENTERING INTO THIS AGREEMENT,
10 YOU HAVE AGREED TO RELINQUISH YOUR RIGHTS TO AN AUTOMATIC
11 OWNERSHIP INTEREST IN SUCH PROPERTY ACQUIRED DURING 1986.

12 2. CLASSIFICATION BY THIS AGREEMENT OF YOUR AND YOUR
13 SPOUSE'S PROPERTY AS THE INDIVIDUAL PROPERTY OF THE OWNER MAY
14 AFFECT YOUR ACCESS TO CREDIT, THE ACCUMULATION OF AND THE
15 MANAGEMENT AND CONTROL OF PROPERTY BY YOU DURING YOUR
16 MARRIAGE AND THE AMOUNT OF PROPERTY YOU HAVE TO DISPOSE OF AT
17 YOUR DEATH.

18 3. THIS AGREEMENT TERMINATES ON JANUARY 1, 1987. IF YOU WISH
19 TO CHANGE THIS AGREEMENT BEFORE JANUARY 1, 1987, OR IF YOU WISH
20 TO CONTINUE TO CLASSIFY YOUR PROPERTY AS PROVIDED IN THIS
21 AGREEMENT AFTER IT TERMINATES ON JANUARY 1, 1987, YOU MAY DO SO
22 BY EXECUTING A NEW MARITAL PROPERTY AGREEMENT THAT COMPLIES
23 WITH SECTION 766.58, WISCONSIN STATUTES.

24 4. THIS AGREEMENT DOES NOT AFFECT RIGHTS AT DIVORCE.

BILL

1 5. IN GENERAL, THIS AGREEMENT IS NOT BINDING ON CREDITORS
2 UNLESS THE CREDITOR IS FURNISHED A COPY OF THE AGREEMENT
3 BEFORE CREDIT IS EXTENDED. IN ADDITION, THIRD PARTIES OTHER
4 THAN CREDITORS MIGHT NOT BE BOUND BY THIS AGREEMENT UNLESS
5 THEY HAVE ACTUAL KNOWLEDGE OF THE TERMS OF THE AGREEMENT.

6 6. THIS AGREEMENT MAY AFFECT YOUR TAXES.

7 7. THIS AGREEMENT MAY AFFECT ANY PREVIOUS MARRIAGE
8 AGREEMENT ENTERED INTO BY YOU AND YOUR SPOUSE.

9 8. THIS AGREEMENT DOES NOT ALTER THE LEGAL DUTY OF SUPPORT
10 THAT SPOUSES HAVE TO EACH OTHER OR THAT A SPOUSE HAS TO HIS OR
11 HER CHILDREN.

12 9. BOTH SPOUSES MUST SIGN THIS AGREEMENT. IF SIGNED BEFORE
13 JANUARY 1, 1986, IT IS EFFECTIVE ON JANUARY 1, 1986, OR THE DATE THE
14 PARTIES MARRY, WHICHEVER IS LATER. IF SIGNED ON OR AFTER
15 JANUARY 1, 1986, IT IS EFFECTIVE ON THE DATE SIGNED OR THE DATE
16 THE PARTIES MARRY, WHICHEVER IS LATER.

STATUTORY INDIVIDUAL**PROPERTY CLASSIFICATION AGREEMENT**

(Pursuant to Section 766.587, Wisconsin Statutes)

20 This agreement is made and entered into by and, (~~husband and wife~~
21 ~~spouses~~) (who intend to marry) (strike one).

22 The parties to this agreement agree to classify all their property, including
23 property owned by them now and property acquired before January 1, 1987, as the
24 individual property of the owning spouse, and agree that ownership of their property
25 shall be determined as if it were December 31, 1985.

BILL

1 This agreement terminates on January 1, 1987.

2 Signature Date

3 Print Name

4 Here:

5 Address:

6 Signature Date

7 Print Name

8 Here:

9 Address:

10 [NOTE: Each spouse should retain a copy of the agreement for himself or herself.]

11 **SECTION 71.** 766.588 (9) (form) of the statutes is amended to read:

12 766.588 (9) (form)

13 NOTICE TO PERSONS WHO SIGN THIS AGREEMENT:

14 1. A PROPERTY LAW KNOWN AS THE MARITAL PROPERTY SYSTEM
15 GOVERNS THE PROPERTY RIGHTS OF MARRIED PERSONS IN WISCONSIN.
16 AFTER THE MARITAL PROPERTY SYSTEM APPLIES TO A MARRIED
17 COUPLE, EACH SPOUSE HAS AN UNDIVIDED ONE-HALF OWNERSHIP
18 INTEREST IN PROPERTY, SUCH AS WAGES, DEFERRED EMPLOYMENT
19 BENEFITS, LIFE INSURANCE, INCOME FROM PROPERTY AND CERTAIN
20 APPRECIATION OF PROPERTY, THEREAFTER ACQUIRED DURING
21 MARRIAGE DUE TO THE EFFORTS OF EITHER OR BOTH SPOUSES.
22 PROPERTY WHICH IS BROUGHT TO THE MARRIAGE AND PROPERTY
23 WHICH IS ACQUIRED BY ONE SPOUSE DURING THE MARRIAGE BY GIFT OR
24 INHERITANCE IS NOT MARITAL PROPERTY BUT IS SOLELY OWNED BY THE
25 ACQUIRING SPOUSE. THIS AGREEMENT ALTERS THE LAW GOVERNING

BILL

1 YOUR PROPERTY RIGHTS. THE PURPOSE OF THE FOLLOWING
2 INFORMATION IS TO APPRISE YOU, IN VERY GENERAL TERMS, OF SOME
3 OF THE MORE IMPORTANT ASPECTS AND POSSIBLE EFFECTS OF THIS
4 AGREEMENT. THE INFORMATION IS NOT INTENDED TO BE A PRECISE OR
5 COMPLETE RECITATION OF THE LAW APPLICABLE TO THIS AGREEMENT
6 AND IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

7 2. BY ENTERING INTO THIS AGREEMENT, YOU HAVE AGREED TO
8 RELINQUISH YOUR RIGHTS TO A SOLE OWNERSHIP INTEREST IN YOUR
9 SOLELY OWNED PROPERTY; HOWEVER, YOU ARE ACQUIRING
10 AUTOMATIC, EQUAL OWNERSHIP RIGHTS, WITH YOUR SPOUSE, TO ALL
11 PROPERTY THAT YOU AND YOUR SPOUSE OWN OR ACQUIRE.

12 3. THIS AGREEMENT MAY AFFECT:

13 A. YOUR ACCESS TO CREDIT AND THE PROPERTY AVAILABLE TO
14 SATISFY OBLIGATIONS INCURRED BY YOU OR YOUR SPOUSE.

15 B. THE ACCUMULATION OF AND THE MANAGEMENT AND CONTROL
16 OF PROPERTY BY YOU DURING YOUR MARRIAGE.

17 C. THE AMOUNT OF PROPERTY YOU HAVE TO DISPOSE OF AT YOUR
18 DEATH.

19 D. YOUR TAXES.

20 E. ANY PREVIOUS MARRIAGE AGREEMENT ENTERED INTO BY YOU
21 AND YOUR SPOUSE.

22 4. THIS AGREEMENT DOES NOT:

23 A. AFFECT RIGHTS AT DIVORCE.

24 B. ALTER THE LEGAL DUTY OF SUPPORT THAT SPOUSES HAVE TO
25 EACH OTHER OR THAT A SPOUSE HAS TO HIS OR HER CHILDREN.

BILL

1 C. BY ITSELF PROVIDE THAT, UPON YOUR DEATH, YOUR MARITAL
2 PROPERTY PASSES TO YOUR SURVIVING SPOUSE. IF THAT IS WHAT YOU
3 INTEND, YOU ARE ENCOURAGED TO SEEK LEGAL ADVICE TO DETERMINE
4 WHAT MUST BE DONE TO ACCOMPLISH THAT RESULT.

5 5. IN GENERAL, THIS AGREEMENT IS NOT BINDING ON CREDITORS
6 UNLESS THE CREDITOR IS FURNISHED A COPY OF THE AGREEMENT
7 BEFORE CREDIT IS EXTENDED. (It is not necessary to furnish a copy of the
8 financial disclosure form.) IN ADDITION, THIRD PARTIES OTHER THAN
9 CREDITORS MIGHT NOT BE BOUND BY THIS AGREEMENT UNLESS THEY
10 HAVE ACTUAL KNOWLEDGE OF THE TERMS OF THE AGREEMENT.

11 6. IF YOU WISH TO AFFECT AN INTEREST IN YOUR REAL PROPERTY
12 WITH THIS AGREEMENT, PARTICULARLY IN RELATION TO THIRD PARTIES,
13 ADDITIONAL LEGAL PROCEDURES AND FORMALITIES MAY BE REQUIRED.
14 IF YOU HAVE QUESTIONS REGARDING THE EFFECT OF THIS AGREEMENT
15 ON YOUR REAL PROPERTY, YOU ARE URGED TO SEEK LEGAL ADVICE.

16 7. IF YOU DO NOT COMPLETE SCHEDULE "A", "FINANCIAL
17 DISCLOSURE", AND THE AGREEMENT BECOMES EFFECTIVE, THE
18 AGREEMENT TERMINATES 3 YEARS AFTER THE DATE THAT YOU BOTH
19 HAVE SIGNED THE AGREEMENT AND YOU MAY NOT, EXECUTE A
20 SUBSEQUENT STATUTORY TERMINABLE MARITAL PROPERTY
21 CLASSIFICATION AGREEMENT WITH THE SAME SPOUSE DURING THE
22 SAME MARRIAGE UNLESS YOU COMPLETE THE FINANCIAL DISCLOSURE
23 FORM. IF YOU INTEND THAT THIS AGREEMENT EXTEND BEYOND 3 YEARS,
24 EACH OF YOU, BEFORE SIGNING THE AGREEMENT, MUST DISCLOSE TO
25 THE OTHER YOUR EXISTING PROPERTY AND YOUR EXISTING FINANCIAL

BILL

1 OBLIGATIONS, BY COMPLETING SCHEDULE "A", "FINANCIAL
2 DISCLOSURE". IF SCHEDULE "A" HAS BEEN FILLED OUT BUT, IN A LEGAL
3 ACTION AGAINST YOU TO ENFORCE THE AGREEMENT, YOU SHOW THAT
4 THE INFORMATION ON SCHEDULE "A" DID NOT PROVIDE YOU WITH FAIR
5 AND REASONABLE DISCLOSURE UNDER THE CIRCUMSTANCES, THE
6 DURATION OF THE AGREEMENT IS 3 YEARS AFTER BOTH PARTIES SIGNED
7 THE AGREEMENT.

8 8. ONE SPOUSE MAY TERMINATE THIS AGREEMENT AT ANY TIME BY
9 GIVING SIGNED NOTICE OF TERMINATION TO THE OTHER SPOUSE. THE
10 AGREEMENT TERMINATES 30 DAYS AFTER NOTICE IS GIVEN.

11 9. TERMINATION OF THIS AGREEMENT DOES NOT BY ITSELF
12 CHANGE THE CLASSIFICATION OF PROPERTY CLASSIFIED BY THE
13 AGREEMENT.

14 10. THIS AGREEMENT MAY BE AMENDED, REVOKED OR
15 SUPPLEMENTED BY A LATER MARITAL PROPERTY AGREEMENT.

16 11. BOTH PARTIES MUST SIGN THIS AGREEMENT AND THE
17 SIGNATURES MUST BE AUTHENTICATED BY OR ACKNOWLEDGED
18 BEFORE A NOTARY. THE AGREEMENT BECOMES EFFECTIVE ON THE DATE
19 THAT YOU HAVE BOTH SIGNED IT, THE DATE THAT YOU MARRY, OR THE
20 DATE ON WHICH YOU ARE BOTH DOMICILED IN WISCONSIN, WHICHEVER
21 IS LATER. IF YOU ALTER THE LANGUAGE OF THE AGREEMENT ON THIS
22 FORM THE AGREEMENT WILL NOT CONSTITUTE A STATUTORY
23 TERMINABLE MARITAL PROPERTY CLASSIFICATION AGREEMENT (BUT IT
24 MAY QUALIFY AS A GENERAL MARITAL PROPERTY AGREEMENT UNDER
25 SECTION 766.58, WISCONSIN STATUTES).

BILL

1 12. EACH SPOUSE SHOULD RETAIN A COPY OF THIS AGREEMENT,
2 INCLUDING ANY DISCLOSURE OF PROPERTY AND OBLIGATIONS, WHILE
3 THE AGREEMENT IS IN EFFECT AND AFTER IT TERMINATES. RETENTION
4 OF A COPY MAY BE IMPORTANT TO PROTECT INTERESTS ACQUIRED
5 UNDER OR AFFECTED BY THE AGREEMENT.

6 13. IF AFTER ENTERING INTO THIS AGREEMENT ONE OR BOTH OF
7 YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU ARE URGED TO
8 SEEK LEGAL ADVICE CONCERNING THE CONTINUED EFFECTIVENESS OF
9 THIS AGREEMENT.

STATUTORY TERMINABLE MARITAL

PROPERTY CLASSIFICATION AGREEMENT

(Pursuant to Section 766.588, Wisconsin Statutes)

13 This agreement is entered into by and (~~husband and wife spouses~~) (who
14 intend to marry) (strike one). The parties hereby classify all of the property owned
15 by them when this agreement becomes effective, and property acquired during the
16 term of this agreement, as marital property.

17 One spouse may terminate this agreement at any time by giving signed notice
18 of termination to the other spouse. Notice of termination by a spouse is given upon
19 personal delivery or when sent by certified mail to the other spouse's last-known
20 address. The agreement terminates 30 days after such notice is given.

21 The parties (have) (have not) (strike one) completed Schedule "A", "Financial
22 Disclosure", attached to this agreement. If Schedule "A" has not been completed, the
23 duration of this agreement is 3 years after both parties have signed the agreement.
24 If Schedule "A" has been completed, the duration of this agreement is not limited to
25 3 years after it is signed.

BILL

1 IF THE DURATION OF THIS AGREEMENT IS NOT TO BE LIMITED TO 3
 2 YEARS, MAKE SURE SCHEDULE "A", "FINANCIAL DISCLOSURE", IS
 3 COMPLETED AND THAT YOU HAVE REVIEWED THE SCHEDULE BEFORE
 4 SIGNING THE AGREEMENT. IF YOU AND YOUR SPOUSE HAVE PREVIOUSLY
 5 ENTERED INTO A STATUTORY TERMINABLE MARITAL PROPERTY
 6 CLASSIFICATION AGREEMENT WITH EACH OTHER WHICH WAS
 7 EFFECTIVE DURING YOUR PRESENT MARRIAGE AND YOU AND YOUR
 8 SPOUSE DID NOT COMPLETE SCHEDULE "A", YOU MAY NOT EXECUTE THIS
 9 AGREEMENT IF YOU DO NOT COMPLETE SCHEDULE "A".

10 Signature of One Spouse:

11 Date:

12 Print Name Here:

13 Residence Address:

14 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

15 AUTHENTICATION

16 Signature authenticated this day of, (year)

17 *....

18 TITLE: MEMBER STATE BAR OF WISCONSIN

19 (If not, authorized by s. 706.06, Wis. Stats.)

20 ACKNOWLEDGMENT

21 STATE OF WISCONSIN)

22) ss.

23 County)

BILL

1 Personally came before me this day of, (year) the above named to
2 me known to be the person who executed the foregoing instrument and acknowledge
3 the same.

4 *....

5 Notary Public, County, Wisconsin.

6 My Commission is permanent.

7 (If not, state expiration date:, (year))

8 (Signatures may be authenticated or

9 acknowledged. Both are not necessary.)

10 *Names of persons signing in any capacity should be
11 typed or printed below their signatures.

12 Signature of Other Spouse:

13 Date:

14 Print Name Here:

15 Residence Address:

16 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

AUTHENTICATION

18 Signature authenticated this day of, (year)

19 *....

20 TITLE: MEMBER STATE BAR OF WISCONSIN

21 (If not, authorized by s. 706.06, Wis. Stats.)

ACKNOWLEDGMENT

23 STATE OF WISCONSIN)

24) ss.

25 County)

BILL

- 1 G. Livestock, farm products, crops
- 2 H. Automobiles and other vehicles
- 3 I. Jewelry and personal effects
- 4 J. Household furnishings
- 5 K. Life insurance and annuities:
 - 6 1. Face value
 - 7 2. Cash surrender value
- 8 L. Retirement benefits (include value):
 - 9 1. Pension plans
 - 10 2. Profit sharing plans
 - 11 3. HR-10 KEOGH plans
 - 12 4. IRAs
 - 13 5. Deferred compensation plans
- 14 M. Other assets not listed elsewhere
- 15 II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):
 - 16 A. Mortgages and liens
 - 17 B. Credit cards
 - 18 C. Other obligations to financial
19 institutions
 - 20 D. Alimony, maintenance and child
21 support (per month)
 - 22 E. Other obligations (such as other obligations
23 to individuals, guarantees,
24 contingent liabilities)
- 25 III. ANNUAL COMPENSATION FOR SERVICES:

BILL

1 (for example, wages and income from self-
2 employment; also include social security,
3 disability and similar income here)

4 (IF YOU NEED ADDITIONAL SPACE,
5 ADD ADDITIONAL SHEETS)

6 **SECTION 72.** 766.589 (10) (form) of the statutes is amended to read:

7 766.589 (10) (form)

8 NOTICE TO PERSONS WHO SIGN THIS AGREEMENT

9 1. A PROPERTY LAW KNOWN AS THE MARITAL PROPERTY SYSTEM
10 GOVERNS THE PROPERTY RIGHTS OF MARRIED PERSONS IN WISCONSIN.
11 AFTER THE MARITAL PROPERTY SYSTEM APPLIES TO A MARRIED
12 COUPLE, EACH SPOUSE HAS AN UNDIVIDED ONE-HALF OWNERSHIP
13 INTEREST IN PROPERTY, SUCH AS WAGES, DEFERRED EMPLOYMENT
14 BENEFITS, LIFE INSURANCE, INCOME FROM PROPERTY AND CERTAIN
15 APPRECIATION OF PROPERTY, THEREAFTER ACQUIRED DURING
16 MARRIAGE DUE TO THE EFFORTS OF EITHER OR BOTH SPOUSES. THIS
17 AGREEMENT ALTERS THE LAW GOVERNING YOUR PROPERTY RIGHTS.
18 THE PURPOSE OF THE FOLLOWING INFORMATION IS TO APPRISE YOU, IN
19 VERY GENERAL TERMS, OF SOME OF THE MORE IMPORTANT ASPECTS
20 AND POSSIBLE EFFECTS OF THIS AGREEMENT. THE INFORMATION IS
21 NOT INTENDED TO BE A PRECISE OR COMPLETE RECITATION OF THE LAW
22 APPLICABLE TO THIS AGREEMENT AND IS NOT A SUBSTITUTE FOR LEGAL
23 ADVICE.

24 2. BY ENTERING INTO THIS AGREEMENT, YOU HAVE AGREED TO
25 RELINQUISH YOUR RIGHTS TO AN AUTOMATIC OWNERSHIP INTEREST IN

BILL

1 PROPERTY ACQUIRED AS A RESULT OF SPOUSAL EFFORT DURING
2 MARRIAGE AND THE TERM OF THE AGREEMENT; HOWEVER, YOU ARE
3 ACQUIRING AUTOMATIC OWNERSHIP RIGHTS TO PROPERTY TITLED IN
4 YOUR NAME.

5 3. THIS AGREEMENT MAY AFFECT:

6 A. YOUR ACCESS TO CREDIT AND THE PROPERTY AVAILABLE TO
7 SATISFY OBLIGATIONS INCURRED BY YOU OR YOUR SPOUSE.

8 B. THE ACCUMULATION OF AND THE MANAGEMENT AND CONTROL
9 OF PROPERTY BY YOU DURING YOUR MARRIAGE.

10 C. THE AMOUNT OF PROPERTY YOU HAVE TO DISPOSE OF AT YOUR
11 DEATH.

12 D. YOUR TAXES.

13 E. ANY PREVIOUS MARRIAGE AGREEMENT ENTERED INTO BY YOU
14 AND YOUR SPOUSE.

15 4. THIS AGREEMENT DOES NOT:

16 A. AFFECT RIGHTS AT DIVORCE.

17 B. ALTER THE LEGAL DUTY OF SUPPORT THAT SPOUSES HAVE TO
18 EACH OTHER OR THAT A SPOUSE HAS TO HIS OR HER CHILDREN.

19 5. NOTWITHSTANDING THIS AGREEMENT, THE PROPERTY
20 CLASSIFIED BY THIS AGREEMENT WHICH IS OWNED BY THE FIRST
21 SPOUSE TO DIE IS SUBJECT TO CERTAIN ELECTIVE RIGHTS OF THE
22 SURVIVING SPOUSE. YOU MAY BAR THESE ELECTIVE RIGHTS BY
23 SEPARATE MARITAL PROPERTY AGREEMENT.

24 6. IN GENERAL, THIS AGREEMENT IS NOT BINDING ON CREDITORS
25 UNLESS THE CREDITOR IS FURNISHED A COPY OF THE AGREEMENT

BILL

1 BEFORE CREDIT IS EXTENDED. (IT IS NOT NECESSARY TO FURNISH A
2 COPY OF THE FINANCIAL DISCLOSURE FORM.) IN ADDITION, THIRD
3 PARTIES OTHER THAN CREDITORS MIGHT NOT BE BOUND BY THIS
4 AGREEMENT UNLESS THEY HAVE ACTUAL KNOWLEDGE OF THE TERMS
5 OF THE AGREEMENT.

6 7. IF YOU WISH TO AFFECT AN INTEREST IN YOUR REAL PROPERTY
7 WITH THIS AGREEMENT, PARTICULARLY IN RELATION TO THIRD PARTIES,
8 ADDITIONAL LEGAL PROCEDURES AND FORMALITIES MAY BE REQUIRED.
9 IF YOU HAVE QUESTIONS REGARDING THE EFFECT OF THIS AGREEMENT
10 ON YOUR REAL PROPERTY, YOU ARE URGED TO SEEK LEGAL ADVICE.

11 8. IF YOU DO NOT COMPLETE SCHEDULE "A", "FINANCIAL
12 DISCLOSURE", AND THE AGREEMENT BECOMES EFFECTIVE, THE
13 AGREEMENT TERMINATES 3 YEARS AFTER THE DATE THAT YOU BOTH
14 HAVE SIGNED THE AGREEMENT AND YOU MAY NOT EXECUTE A
15 SUBSEQUENT STATUTORY TERMINABLE INDIVIDUAL PROPERTY
16 CLASSIFICATION AGREEMENT WITH THE SAME SPOUSE DURING THE
17 SAME MARRIAGE UNLESS YOU COMPLETE THE FINANCIAL DISCLOSURE
18 FORM. IF YOU INTEND THAT THIS AGREEMENT EXTEND BEYOND 3
19 YEARS, EACH OF YOU, BEFORE SIGNING THE AGREEMENT, MUST
20 DISCLOSE TO THE OTHER YOUR EXISTING PROPERTY AND YOUR
21 EXISTING FINANCIAL OBLIGATIONS, BY COMPLETING SCHEDULE "A",
22 "FINANCIAL DISCLOSURE". IF SCHEDULE "A" HAS BEEN FILLED OUT BUT
23 IN A LEGAL ACTION AGAINST YOU TO ENFORCE THE AGREEMENT YOU
24 SHOW THAT THE INFORMATION ON SCHEDULE "A" DID NOT PROVIDE YOU
25 WITH FAIR AND REASONABLE DISCLOSURE UNDER THE

BILL

1 CIRCUMSTANCES, THE DURATION OF THE AGREEMENT IS 3 YEARS AFTER
2 BOTH PARTIES SIGNED THE AGREEMENT.

3 9. ONE SPOUSE MAY TERMINATE THIS AGREEMENT AT ANY TIME BY
4 GIVING SIGNED NOTICE OF TERMINATION TO THE OTHER SPOUSE. THE
5 AGREEMENT TERMINATES 30 DAYS AFTER NOTICE IS GIVEN. IF SUCH
6 NOTICE OF TERMINATION IS GIVEN BY ONE SPOUSE TO THE OTHER
7 SPOUSE, EACH SPOUSE HAS A DUTY TO THE OTHER SPOUSE TO ACT IN
8 GOOD FAITH IN MATTERS INVOLVING THE PROPERTY OF THE SPOUSE
9 WHO IS REQUIRED TO ACT IN GOOD FAITH WHICH HAS BEEN CLASSIFIED
10 AS INDIVIDUAL PROPERTY BY THIS AGREEMENT. THE GOOD FAITH DUTY
11 CONTINUES UNTIL THE AGREEMENT TERMINATES (30 DAYS AFTER
12 NOTICE IS GIVEN).

13 10. TERMINATION OF THIS AGREEMENT DOES NOT BY ITSELF
14 CHANGE THE CLASSIFICATION OF PROPERTY CLASSIFIED BY THE
15 AGREEMENT.

16 11. THIS AGREEMENT MAY BE AMENDED, REVOKED OR
17 SUPPLEMENTED BY A LATER MARITAL PROPERTY AGREEMENT.

18 12. BOTH PARTIES MUST SIGN THIS AGREEMENT AND THE
19 SIGNATURES MUST BE AUTHENTICATED OR ACKNOWLEDGED BEFORE A
20 NOTARY. THE AGREEMENT BECOMES EFFECTIVE ON THE DATE THAT
21 YOU HAVE BOTH SIGNED IT, THE DATE THAT YOU MARRY, OR THE DATE ON
22 WHICH YOU ARE BOTH DOMICILED IN WISCONSIN, WHICHEVER IS LATER.
23 IF YOU ALTER THE LANGUAGE OF THE AGREEMENT ON THIS FORM, THE
24 AGREEMENT WILL NOT CONSTITUTE A STATUTORY TERMINABLE
25 INDIVIDUAL PROPERTY CLASSIFICATION AGREEMENT (BUT IT MAY

BILL

1 QUALIFY AS A GENERAL MARITAL PROPERTY AGREEMENT UNDER
2 SECTION 766.58, WISCONSIN STATUTES).

3 13. EACH SPOUSE SHOULD RETAIN A COPY OF THIS AGREEMENT,
4 INCLUDING ANY DISCLOSURE OF PROPERTY AND OBLIGATIONS, WHILE
5 THE AGREEMENT IS IN EFFECT AND AFTER IT TERMINATES. RETENTION
6 OF A COPY MAY BE IMPORTANT TO PROTECT INTERESTS ACQUIRED
7 UNDER OR AFFECTED BY THE AGREEMENT.

8 14. IF AFTER ENTERING INTO THIS AGREEMENT ONE OR BOTH OF
9 YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU ARE URGED TO
10 SEEK LEGAL ADVICE CONCERNING THE CONTINUED EFFECTIVENESS OF
11 THIS AGREEMENT.

STATUTORY TERMINABLE INDIVIDUAL

PROPERTY CLASSIFICATION AGREEMENT

12
13
14 (Pursuant to Section 766.589, Wisconsin Statutes)

15 This agreement is entered into by and (~~husband and wife spouses~~) (who
16 intend to marry) (strike one). The parties hereby classify the marital property owned
17 by them when this agreement becomes effective, and property acquired during the
18 term of this agreement which would otherwise have been marital property, as the
19 individual property of the owning spouse. The parties agree that ownership of such
20 property shall be determined by the name in which the property is held and, if
21 property is not held by either or both spouses, ownership shall be determined as if
22 the parties were unmarried persons when the property was acquired.

23 Upon the death of either spouse the surviving spouse may, except as otherwise
24 provided in a subsequent marital property agreement, and regardless of whether

BILL

1 this agreement has terminated, elect against the property of the decedent spouse as
2 provided in section 766.589 (7) of the Wisconsin Statutes.

3 One spouse may terminate this agreement at any time by giving signed notice
4 of termination to the other spouse. Notice of termination by a spouse is given upon
5 personal delivery or when sent by certified mail to the other spouse's last-known
6 address. The agreement terminates 30 days after such notice is given.

7 The parties (have) (have not) (strike one) completed Schedule "A", "Financial
8 Disclosure", attached to this agreement. If Schedule "A" has not been completed, the
9 duration of this agreement is 3 years after both parties have signed the agreement.
10 If Schedule "A" has been completed, the duration of this agreement is not limited to
11 3 years after it is signed.

12 **IF THE DURATION OF THIS AGREEMENT IS NOT TO BE LIMITED TO 3**
13 **YEARS, MAKE SURE THAT SCHEDULE "A", "FINANCIAL DISCLOSURE", IS**
14 **COMPLETED AND THAT YOU HAVE REVIEWED THE SCHEDULE BEFORE**
15 **SIGNING THE AGREEMENT. IF YOU AND YOUR SPOUSE HAVE PREVIOUSLY**
16 **ENTERED INTO A STATUTORY TERMINABLE INDIVIDUAL PROPERTY**
17 **CLASSIFICATION AGREEMENT WITH EACH OTHER WHICH WAS**
18 **EFFECTIVE DURING YOUR PRESENT MARRIAGE AND YOU AND YOUR**
19 **SPOUSE DID NOT COMPLETE SCHEDULE "A", YOU MAY NOT EXECUTE THIS**
20 **AGREEMENT IF YOU DO NOT COMPLETE SCHEDULE "A".**

21 Signature of One Spouse:

22 Date:

23 Print Name Here:

24 Residence Address:

25 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

BILL

AUTHENTICATION

Signature authenticated this day of, (year)

*....

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not, authorized by s. 706.06, Wis. Stats.)

ACKNOWLEDGMENT

STATE OF WISCONSIN)

) ss.

.... County)

Personally came before me this day of, (year) the above named to me known to be the person who executed the foregoing instrument and acknowledge the same.

*....

Notary Public, County, Wisconsin.

My Commission is permanent.

(If not, state expiration date:, (year))

(Signatures may be authenticated or acknowledged. Both are not necessary.)

*Names of persons signing in any capacity should be typed or printed below their signatures.

Signature of Other Spouse:

Date:

Print Name Here:

Residence Address:

(Make Sure Your Signature is Authenticated or Acknowledged Below.)

BILL

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AUTHENTICATION

Signature authenticated this day of, (year)

*....

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not, authorized by s. 706.06, Wis. Stats.)

ACKNOWLEDGMENT

STATE OF WISCONSIN)

) ss.

.... County)

Personally came before me this day of, (year) the above named to
me known to be the person who executed the foregoing instrument and acknowledge
the same.

*....

Notary Public, County, Wisconsin.

My Commission is permanent.

(If not, state expiration date:, (year))

(Signatures may be authenticated or
acknowledged. Both are not necessary.)

*Names of persons signing in any capacity should
be typed or printed below their signatures.

TERMINATION OF

STATUTORY TERMINABLE INDIVIDUAL

PROPERTY CLASSIFICATION AGREEMENT

I UNDERSTAND THAT:

BILL

1 1. THIS TERMINATION TAKES EFFECT 30 DAYS AFTER MY SPOUSE IS
2 NOTIFIED OF THE TERMINATION, AS PROVIDED UNDER SECTION 766.589
3 (4) OF THE WISCONSIN STATUTES.

4 2. THIS TERMINATION IS PROSPECTIVE; IT DOES NOT AFFECT THE
5 CLASSIFICATION OF PROPERTY ACQUIRED BEFORE THE TERMINATION
6 BECOMES EFFECTIVE. PROPERTY ACQUIRED AFTER THE TERMINATION
7 BECOMES EFFECTIVE IS CLASSIFIED AS PROVIDED UNDER THE MARITAL
8 PROPERTY LAW.

9 3. IN GENERAL, THIS TERMINATION IS NOT BINDING ON CREDITORS
10 UNLESS THEY ARE PROVIDED A COPY OF THE TERMINATION BEFORE
11 CREDIT IS EXTENDED.

12 The undersigned terminates the statutory terminable individual property
13 classification agreement entered into by me and my spouse on (date last spouse
14 signed the agreement) under section 766.589 of the Wisconsin Statutes.

15 Signature:

16 Date:

17 Print Name Here:

18 Residence Address:

SCHEDULE "A"

FINANCIAL DISCLOSURE

21 The following general categories of assets and liabilities are not all inclusive
22 and if other assets or liabilities exist they should be listed. Assets should be listed
23 according to which spouse has title (including assets owned by a spouse or the
24 spouses with one or more third parties) and at their approximate market value.

25 *Husband Name of One Spouse Wife Name of Other Spouse Both Names*

BILL

- 1 I. ASSETS:
- 2 A. Real estate (gross value)
- 3 B. Stocks, bonds and mutual funds
- 4 C. Accounts at and certificates and
- 5 other instruments issued by
- 6 financial institutions
- 7 D. Mortgages, land contracts,
- 8 promissory notes and cash
- 9 E. Partnership interests
- 10 EL. Limited liability company interests
- 11 F. Trust interests
- 12 G. Livestock, farm products, crops
- 13 H. Automobiles and other vehicles
- 14 I. Jewelry and personal effects
- 15 J. Household furnishings
- 16 K. Life insurance and annuities:
- 17 1. Face value
- 18 2. Cash surrender value
- 19 L. Retirement benefits (include value):
- 20 1. Pension plans
- 21 2. Profit sharing plans
- 22 3. HR-10 KEOGH plans
- 23 4. IRAs
- 24 5. Deferred compensation plans
- 25 M. Other assets not listed elsewhere

BILL

- 1 II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):
- 2 A. Mortgages and liens
- 3 B. Credit cards
- 4 C. Other obligations to financial
- 5 institutions
- 6 D. Alimony, maintenance and child
- 7 support (per month)
- 8 E. Other obligations (such as other obligations
- 9 to individuals guarantees,
- 10 contingent liabilities)

11 III. ANNUAL COMPENSATION FOR SERVICES:

12 (for example, wages and income from

13 self-employment; also include social security,

14 disability and similar income here)

15 (IF YOU NEED ADDITIONAL SPACE,
16 ADD ADDITIONAL SHEETS.)

17 **SECTION 73.** 767.082 of the statutes is amended to read:

18 **767.082 Suspension of proceedings to effect reconciliation.** During the
19 pendency of any action for divorce or legal separation, the court may, upon written
20 stipulation of both parties that they desire to attempt a reconciliation, enter an order
21 suspending any and all orders and proceedings for such period, not exceeding 90
22 days, as the court determines advisable so as to permit the parties to attempt a
23 reconciliation without prejudice to their respective rights. During the period of
24 suspension the parties may resume living together as ~~husband and wife~~ spouses and
25 their acts and conduct shall not constitute an admission that the marriage is not

BILL

1 irretrievably broken or a waiver of the ground that the parties have voluntarily lived
2 apart continuously for 12 months or more immediately prior to the commencement
3 of the action if such is the case. Suspension may be revoked upon motion of either
4 party by order of the court. If the parties become reconciled, the court shall dismiss
5 the action. If the parties are not reconciled after the period of suspension, the action
6 shall proceed as though no reconciliation period was attempted.

7 **SECTION 74.** 767.085 (1) (a) of the statutes is amended to read:

8 767.085 (1) (a) The name and birthdate of the parties, the social security
9 numbers of the ~~husband and wife~~ spouses and their occupations, the date and place
10 of marriage, and the facts relating to the residence of both parties.

11 **SECTION 75.** 767.085 (1) (b) of the statutes is amended to read:

12 767.085 (1) (b) The name, birthdate, and social security number of each minor
13 child of the parties and each other child born to ~~the wife~~ a spouse during the
14 marriage, and whether ~~the wife~~ a spouse is pregnant.

15 **SECTION 76.** 767.458 (1m) of the statutes is amended to read:

16 767.458 (1m) In an action to establish the paternity of a child who was born
17 to a woman while she was married to a man, where a man other than the woman's
18 ~~husband~~ spouse alleges that he, not the ~~husband~~ woman's spouse, is the child's
19 father, a party may allege that a judicial determination that a man other than the
20 ~~husband~~ woman's spouse is the father is not in the best interest of the child. If the
21 court or a circuit or supplemental court commissioner under s. 757.675 (2) (g)
22 determines that a judicial determination of whether a man other than the ~~husband~~
23 woman's spouse is the father is not in the best interest of the child, no genetic tests
24 may be ordered and the action shall be dismissed.

25 **SECTION 77.** 767.47 (9) of the statutes is amended to read:

BILL

1 767.47 (9) Where a child is conceived by artificial insemination, the ~~husband~~
2 spouse of the mother of the child at the time of the conception of the child is the
3 natural ~~father~~ parent of the child, as provided in s. 891.40.

4 **SECTION 78.** 767.50 (1) of the statutes is amended to read:

5 767.50 (1) The trial shall be divided into 2 parts. The first part shall deal with
6 the determination of paternity. The 2nd part shall deal with child support, legal
7 custody, periods of physical placement, and related issues. At the first part of the
8 trial, the main issue shall be whether the alleged or presumed father is or is not the
9 father of the mother's child, but if the child was born to the mother while she was the
10 lawful ~~wife~~ spouse of a specified man there shall first be determined, as provided in
11 s. 891.39, the prior issue of whether the ~~husband~~ mother's spouse was not the father
12 of the child. The first part of the trial shall be by jury only if the defendant verbally
13 requests a jury trial either at the initial appearance or at the pretrial hearing or
14 requests a jury trial in writing prior to the pretrial hearing. The court may direct,
15 and if requested by either party, before the introduction of any testimony in the
16 party's behalf, shall direct the jury, in cases where there is a jury, to find a special
17 verdict as to any of the issues specified in this section except that the court shall make
18 all the findings enumerated in s. 767.51 (2) to (4). If the mother is dead, becomes
19 insane, cannot be found within the jurisdiction, or fails to commence or pursue the
20 action, the proceeding does not abate if any of the persons under s. 767.45 (1) makes
21 a motion to continue. The testimony of the mother taken at the pretrial hearing may
22 in any such case be read in evidence if it is competent, relevant, and material. The
23 issues of child support, custody and visitation, and related issues shall be determined
24 by the court either immediately after the first part of the trial or at a later hearing
25 before the court.

BILL

1 **SECTION 79.** 769.316 (9) of the statutes is amended to read:

2 769.316 (9) The defense of immunity based on the relationship of ~~husband and~~
3 ~~wife~~ spouses or parent and child does not apply in a proceeding under this chapter.

4 **SECTION 80.** 815.20 (1) of the statutes is amended to read:

5 815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a
6 resident owner and occupied by him or her shall be exempt from execution, from the
7 lien of every judgment and from liability for the debts of the owner to the amount of
8 \$40,000, except mortgages, laborers', mechanics' and purchase money liens and
9 taxes and except as otherwise provided. The exemption shall not be impaired by
10 temporary removal with the intention to reoccupy the premises as a homestead nor
11 by the sale of the homestead, but shall extend to the proceeds derived from the sale
12 to an amount not exceeding \$40,000, while held, with the intention to procure
13 another homestead with the proceeds, for 2 years. The exemption extends to land
14 owned by ~~husband and wife~~ spouses jointly or in common or as marital property, and
15 when they reside in the same household may be claimed by either or may be divided
16 in any proportion between them, but the exemption may not exceed \$40,000 for the
17 household. If the ~~husband and wife~~ spouses fail to agree on the division of exemption,
18 the exemption shall be divided between them by the court in which the first judgment
19 was taken. The exemption extends to the interest therein of tenants in common,
20 having a homestead thereon with the consent of the cotenants, and to any estate less
21 than a fee.

22 **SECTION 81.** 851.30 (2) (a) of the statutes is amended to read:

23 851.30 (2) (a) An individual who obtains or consents to a final decree or
24 judgment of divorce from the decedent or an annulment of their marriage, if the
25 decree or judgment is not recognized as valid in this state, unless they subsequently

BILL

1 participate in a marriage ceremony purporting to marry each other or they
2 subsequently hold themselves out as ~~husband and wife~~ spouses.

3 **SECTION 82.** 854.03 (3) of the statutes is amended to read:

4 854.03 (3) MARITAL PROPERTY. Except as provided in subs. (4) and (5), if a
5 ~~husband and wife~~ both spouses die leaving marital property and it is not established
6 that one survived the other by at least 120 hours, 50% of the marital property shall
7 be distributed as if it were ~~the husband's~~ one spouse's individual property and ~~the~~
8 ~~husband~~ that spouse had survived, and 50% of the marital property shall be
9 distributed as if it were ~~the wife's~~ other spouse's individual property and ~~the wife~~ that
10 spouse had survived.

11 **SECTION 83.** 880.12 (1) of the statutes is amended to read:

12 880.12 (1) The court shall after hearing determine whether the person is a
13 proper subject for guardianship. If the person is found to be in need of a guardian,
14 the court shall appoint one or more guardians but not more than one guardian of the
15 person shall be appointed unless they be ~~husband and wife~~ spouses. The order shall
16 specify the amount of the bond, if any, to be given.

17 **SECTION 84.** 880.32 of the statutes is amended to read:

18 **880.32 Notes and mortgages of minor veterans.** Notwithstanding any
19 provision of this chapter or any other law to the contrary, any minor who served in
20 the active armed forces of the United States at any time after August 27, 1940, and
21 ~~the husband or wife~~ spouse of such minor may execute in his or her own right, notes
22 or mortgages, the payment of which is guaranteed or insured by the U.S. department
23 of veterans affairs or the federal housing administrator under the servicemen's
24 readjustment act of 1944 or the national housing act or any acts supplementary
25 thereto or amendatory thereof. In connection with such transactions, such minors

BILL

1 may sell, release or convey such mortgaged property and litigate or settle
2 controversies arising therefrom, including the execution of releases, deeds and other
3 necessary papers or instruments. Such notes, mortgages, releases, deeds and other
4 necessary papers or instruments when so executed shall not be subject to avoidance
5 by such minor or the ~~husband or wife~~ spouse of such minor upon either or both of
6 them attaining the age of 18 because of the minority of either or both of them at the
7 time of the execution thereof.

8 **SECTION 85.** 880.835 (1) of the statutes is amended to read:

9 880.835 (1) Beneficial interests in a custodial trust created for multiple
10 beneficiaries are deemed to be separate custodial trusts of equal undivided interests
11 for each beneficiary. Except in a transfer or declaration for use and benefit of
12 ~~husband and wife~~ spouses, for whom survivorship is presumed, a right of
13 survivorship does not exist unless the instrument creating the custodial trust
14 specifically provides for survivorship or survivorship is required as to marital
15 property.

16 **SECTION 86.** 891.39 (1) (a) of the statutes is amended to read:

17 891.39 (1) (a) Whenever it is established in an action or proceeding that a child
18 was born to a woman while she was the ~~lawful wife~~ spouse of a specified man, any
19 party asserting in such action or proceeding that the ~~husband~~ man was not the father
20 of the child shall have the burden of proving that assertion by a clear and satisfactory
21 preponderance of the evidence. In all such actions or proceedings ~~the husband and~~
22 ~~the wife~~ both spouses are competent to testify as witnesses to the facts. The court
23 or judge in such cases shall appoint a guardian ad litem to appear for and represent
24 the child whose paternity is questioned. Results of a genetic test, as defined in s.
25 767.001 (1m), showing that a man other than the ~~husband~~ woman's spouse is not

BILL

1 excluded as the father of the child and that the statistical probability of the man's
2 parentage is 99.0% or higher constitute a clear and satisfactory preponderance of the
3 evidence of the assertion under this paragraph, even if the ~~husband~~ spouse is
4 unavailable to submit to genetic tests, as defined in s. 767.001 (1m).

5 **SECTION 87.** 891.39 (3) of the statutes is amended to read:

6 891.39 (3) If any court under this section adjudges a child to be a nonmarital
7 child, the clerk of court shall report the facts to the state registrar, who shall issue
8 a new birth certificate showing the correct facts as found by the court, and shall
9 dispose of the original, with the court's report attached under s. 69.15 (3). If ~~the~~
10 ~~husband~~ a male spouse is a party to the action and the court makes a finding as to
11 whether ~~or not the husband~~ he is the father of the child, such finding shall be
12 conclusive in all other courts of this state.

13 **SECTION 88.** 891.40 (1) of the statutes is amended to read:

14 891.40 (1) If, under the supervision of a licensed physician and with the consent
15 of her ~~husband~~ spouse, a ~~wife~~ woman is inseminated artificially with semen donated
16 by a man who is not her husband spouse, the ~~husband~~ spouse of the mother at the
17 time of the conception of the child shall be ~~the~~ a natural father parent of a child
18 conceived. The ~~husband's~~ spouse's consent must be in writing and signed by ~~him~~ or
19 her and ~~his wife~~ the mother. The physician shall certify their signatures and the date
20 of the insemination, and shall file the ~~husband's~~ spouse's consent with the
21 department of health and family services, where it shall be kept confidential and in
22 a sealed file except as provided in s. 46.03 (7) (bm). However, the physician's failure
23 to file the consent form does not affect the legal status of ~~father~~ parent and child. All
24 papers and records pertaining to the insemination, whether part of the permanent

BILL

1 record of a court or of a file held by the supervising physician or elsewhere, may be
2 inspected only upon an order of the court for good cause shown.

3 **SECTION 89.** 891.40 (2) of the statutes is amended to read:

4 891.40 (2) The donor of semen provided to a licensed physician for use in
5 artificial insemination of a woman ~~other than~~ who is not the donor's wife spouse is
6 not ~~the~~ a natural father parent of a child conceived, bears no liability for the support
7 of the child, and has no parental rights with regard to the child.

8 **SECTION 90.** 905.05 (title) of the statutes is amended to read:

9 **905.05** (title) ~~Husband–wife~~ Spousal privilege.

10 **SECTION 91.** 938.02 (13) of the statutes is amended to read:

11 938.02 (13) “Parent” means ~~either~~ a biological parent, a ~~husband~~ spouse who
12 has consented to the artificial insemination of ~~his–wife~~ his or her spouse under s.
13 891.40, or a parent by adoption. If the juvenile is a nonmarital child who is not
14 adopted or whose parents do not subsequently intermarry under s. 767.60, “parent”
15 includes a person acknowledged under s. 767.62 (1) or a substantially similar law of
16 another state or adjudicated to be the biological father. “Parent” does not include any
17 person whose parental rights have been terminated.

18 **SECTION 92.** 943.20 (2) (c) of the statutes is amended to read:

19 943.20 (2) (c) “Property of another” includes property in which the actor is a
20 co–owner and property of a partnership of which the actor is a member, unless the
21 actor and the victim are ~~husband and wife~~ married to each other.

22 **SECTION 93.** 943.205 (2) (b) of the statutes is amended to read:

23 943.205 (2) (b) “Owner” includes a co–owner of the person charged and a
24 partnership of which the person charged is a member, unless the person charged and
25 the victim are ~~husband and wife~~ married to each other.

**2003-2004 DRAFTING INSERT
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LRB-3161/2ins
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INSERT 2-A

¶ Although current law provides that every person who has attained the age of 18 years may marry if otherwise competent, current law describes marriage as a legal relationship between two equal persons, a husband and a wife, and as a civil contract that creates the legal status of husband and wife. "Husband" and "wife" are not defined in the statutes, but the common dictionary definition of "husband" is a male partner in a marriage and the common dictionary definition of "wife" is a female partner in a marriage. Thus, our statutes have been interpreted as allowing marriage only between a man and a woman.

(END OF INSERT 2-A)

Emery, Lynn

From: Phillips, Eric
Sent: Wednesday, February 11, 2004 4:19 PM
To: LRB.Legal
Subject: Draft review: LRB 03-3161/2 Topic: Permitting same-sex marriages

It has been requested by <Phillips, Eric> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3161/2 Topic: Permitting same-sex marriages



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
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LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

March 25, 2004

MEMORANDUM

To: Representative Pocan

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **AB-992** (LRB 03-3161/2)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

March 19, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on AB 992: Permitting Same-Sex Marriages

The initial applicability date would be a problem only if this bill were enacted late in the year after forms had been sent to the printer. If this bill were enacted after July 31, it would be better if the bill would first apply to taxable years beginning on January 1 following the date of enactment.

If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.